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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/542,926

07/21/2005

Israel Gannot

30216

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67801 7590 06/01/2010  
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EXAMINER

FARAH, AHMED M

ART UNIT

PAPER NUMBER

3769

MAIL DATE

DELIVERY MODE

06/01/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/542,926	<b>Applicant(s)</b> GANNOT ET AL.	
	<b>Examiner</b> Ahmed M. Farah	<b>Art Unit</b> 3769	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17, 19, 25-32, 37, 40 and 41 is/are pending in the application.
- 4a) Of the above claim(s) 40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19, 25-32, 37, 40 and 41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/20/05; and 1/6/10</u> .                                    | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election without traverse of the invention of Group I, claim 1-16 in the reply filed on January 7, 2010 is acknowledged.

Claim 40 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 7, 2010.

**Note:** claims 17, 19, 25-34, and 37 are drawn to different embodiments but have been made dependent from claim 1. Hence, these claims are withdrawn because they are directed to non-elected inventions. However, if claim 1 became allowable, these claims will be rejoined with the allowable claims.

### *Specification*

The abstract of the disclosure is objected to because it contains more than one paragraph. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology

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often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-16 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brauer US Patent No. 5,951,543 in view of Adachi et al. US Patent No. 5,445,157.

Brauer discloses a system for monitoring and control of a minimally invasive surgical procedure for a targeted tissue, the system comprising:

an endoscope, said endoscope comprising an input conduit for receiving an input for the targeted tissue, and an output conduit for sending output from the targeted tissue( plurality of optical fibers 504 adapted to provide input illumination beam and

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visual feedback image signals); and an input mechanism 536 for providing input to the targeted tissue through said input conduit of said endoscope (see Fig. 5).

Although Brauer teaches in the background section of his invention that the use of IR imaging is known in the art, he does not specifically employ a thermal output receiver for receiving thermal information from the targeted tissue through said output conduit of said endoscope as claimed. He further fails to teach a processor in communication with the input mechanism or a thermal output receiver, which is configured to receive said thermal output from the thermal output receiver as an image and to adjust the input mechanism so as to adjust the input to the targeted tissue based on the detected thermal output as claimed.

However, the use of thermal output receiver for receiving thermal information from the targeted tissue is known in the art. Furthermore, the examiner notes that the use of feedback loop control system for receiving tissue information and in turn modifying or adjusting the out put of treatment energy is known in the art. Adachi et al. disclose an alternative endoscopic apparatus comprising a thermal output receiver for receiving thermal information from the targeted tissue as claimed (see Fig. 1). Hence, at the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify Brauer in view of Adachi et al. an use a thermal imager as an alternative imaging means. It would have been further obvious to one of ordinary skill in the art to use a feedback loop control system in to automate the endoscopic apparatus.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brauer in view of Adachi et al. as applied to claims 1-3 and 5-16 above, and further in view of Croitoru et al. US Patent No. 5,497,440.

Brauer, described above, does not use hollow waveguides for communicating the optical energy. However, the use of hollow waveguides for transmitting optical energy is known in the art. Croitoru et al. disclose optical delivery system comprising hollow waveguides (see Figs. 1, 4 and 5). Hence, at the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to use hollow waveguides as an equivalent alternative means for delivering the optical energy.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahmed M. Farah whose telephone number is (571) 272-4765. The examiner can normally be reached on Mon, Tue, Thur and Fri between 9:30 AM 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johnson Henry can be reached on (571) 272-4768. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ahmed M Farah/  
Primary Examiner, Art Unit 3769

April 23, 2010.